

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 3rd day of April, 1998

BEFORE

THE HON'BLE MR.JUSTICE V.P.MOHAN KUMAR

WRIT PETITION No.2466 OF 1998

BETWEEN:

M/s.C.M.S.Silk Traders,  
31, Basavanna Lane,  
K.R.Settypet, Bangalore-2.

(Rep.by Sri.Salaudin,  
Muslaman, major,  
Partner)

....PETITIONER

(Sri.A.Sathyanarayana, Advocate,  
for the petitioner)

A N D:

1. Addl.Asst.Commr.of Comm. Taxes,  
23rd Circle, Chamarajpet,  
Bangalore-18 (Assessing Authority)
2. Commr.of Comm. Taxes,  
Karnataka, VTK, Gandhinagar,  
Bangalore-9

...RESPONDENTS

(Smt.Sujatha, HCGP, for the respondents)

Writ Petition filed under Articles 226 & 227 of the Constitution of India, praying to issue a writ of certiorari or any other appropriate writ, order or direction as this Hon'ble Court deems fit quashing the re-assessment order u/s.12-A of the KST Act marked as Annexure-D and the accompanying demand notice, (ii) issue a writ in the nature of a declaration that no TOT is leviable for the year

year 90-91 and thus restrain permanently the 1st respondent from taking action whatsoever to levy and/or collect TOT for that period 90-91, etc.

This writ petition having been heard and reserved for orders and coming on this day for pronouncement of orders, the Court pronounced the following:

O R D E R

The petitioner, a dealer in raw and twisted silk yarn, challenges the proceedings under Section 12-A of the Karnataka Sales Tax Act, whereby he alleges that turnover tax is levied on the petitioner on the purchase of raw silk and sale of silk yarn during the year 1990-91.

2. The petitioner alleges that with effect from 31-3-1990, Raw silk and Silk yarn is totally exempt from payment of turnover tax. He alleges that contrary to the statutory provisions, the assessment has been completed as per Annexure-D order by the 1st respondent. He alleges that the question raised is covered by the decision of this Court in (1994) 94 STC 226.

3. Whatever that be, the petitioner has an effective alternate appellate remedy under Sec.20 of the Act. The petitioner is, therefore, directed to pursue the appellate remedy. The Appellate Authority may

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may entertain the appeal, if the same is preferred within four weeks from today, as if it is preferred within the statutory period. In view of the grant of the interim order by this Court, the recovery of the tax as assessed by Annexure-D shall be kept in abeyance till the disposal of the appeal filed by the petitioner within the above period.

The Writ Petition is disposed of as above.

Sd/-  
JUDGE



Pkc.